

only when the settlement is adequately supported by all the facts and circumstances and is in the best interest of the United States.

§ 326.7 Litigation.

(a) If a court suit of a P&I nature is filed which arises out of the activities of the Agent under its Agreement, wherein the Agent is named as the party defendant or one of the parties' defendant irrespective of whether the risk is covered by P&I insurance, the Agent shall immediately forward copies of the pleading and all other related legal documents, by first class mail, to the Chief Counsel, Maritime Administration, Department of Transportation, Washington, DC 20590, and to the Attorney General, Attn: Civil Division, Torts Branch, Department of Justice, Washington, DC 20530. No agent or authorized subagent shall incur any legal expenses in connection with any claim of a P&I nature, unless approved in advance by MARAD, and by the underwriter, where applicable. However, the Agent may incur legal expenses if the mission of the vessel will be frustrated or impeded and/or time will not permit such prior approval.

(b) In the event of any attachment or seizure of a vessel, whether or not the risk is of a P&I nature, the Agent shall immediately notify the Chief Counsel, Maritime Administration, Washington, DC 20590, Tel. (202) 366-05711, by telegram, radio, or cable.

PART 327—SEAMEN'S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION

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AUTHORITY: 46 app. U.S.C. sections: 1114(b), 1241a; 50 U.S.C. app. 1291(a).

SOURCE: 56 FR 50275, Oct. 4, 1991, unless otherwise noted.

§ 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 of this part and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as "seamen") employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MARAD), or successor.

§ 327.2 Statutory provisions.

(a) In connection with the Vessel Operations Revolving Fund created for the purpose of carrying out the vessel operating functions of the Secretary of Transportation, the Third Supplemental Appropriation Act, 1951 (46 app. U.S.C. 1241a), provides, in part:

That the provisions of sections 1(a), 1(c), 3(c) and 4 of Public Law 17, Seventy-eighth Congress (57 Stat. 45), as amended, shall be applicable in connection with such operations and to seamen employed through general agents as employees of the United States, who may be employed in accordance with customary commercial practices in the maritime industry, notwithstanding the provisions of any law applicable in terms to the employment of persons by the United States.

(b) Section 1(a) of Public Law 17 (50 U.S.C. app. 1291(a)), as amended, provides that:

(a) Officers and members of crews (hereinafter referred to as "seamen") employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act, as amended by subsection (b) (2) and (3) of this section; (2) death, injuries, illness, maintenance and cure, loss of effects, detention, or repatriation, or claims arising therefrom not covered by the foregoing clause (1); and (3) collection of wages and bonuses and making of allotments, have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. * * *. Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seamen were employed on a privately owned and operated American vessel. Any claim referred to in

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clause (2) or (3) hereof shall, if administratively disallowed in whole or in part, be enforced pursuant to the provisions of the Suits in Admiralty Act, notwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act. * * *. When used in this subsection the term “administratively disallowed” means a denial of a written claim in accordance with rules or regulations prescribed by the Administrator, War Shipping Administration. When used in this subsection the terms “War Shipping Administration” and “Administrator, War Shipping Administration” shall be deemed to include the United States Maritime Commission with respect to the period beginning October 1 1941, and ending February 11, 1942, and the term “seaman” shall be deemed to include any seaman employed as an employee of the United States through the War Shipping Administration on vessels made available to or subchartered to other agencies or departments of the United States.

(c) The functions of the War Shipping Administrator and War Shipping Administration were transferred for liquidation purposes by title II of Public Law 492, 79th Congress (60 Stat. 501) to the United States Maritime Commission and, on August 20, 1949, by Reorganization Plan No. 6 of 1949 (63 Stat. 1069) to the Chairman of said Commission; certain of the functions of the United States Maritime Commission and of its Chairman were transferred on May 24, 1950, by part II of Reorganization Plan No. 21 of 1950 (64 Stat. 1273, 1276; 46 U.S.C. 1111-1114) to the Secretary of Commerce, and thereafter redelegated by the Secretary of Commerce to the Maritime Administrator (Department Order No. 117 (Amended), Manual of Orders, Department of Commerce); vessel operating functions were redelegated by the Maritime Administrator to the Director, National Shipping Authority, Maritime Administration (Administrator's Order No. 11 (Amended), Manual of Orders, Federal Maritime Board/Maritime Administration). In 1981, Public Law 99-31 (95 Stat. 165) transferred the Maritime Administration from the Department of Commerce to the Department of Transportation. By DOT Order 1100.60A, the Secretary of Transportation has delegated to the Maritime Administrator the authority to carry out the Act of June 2, 1951 (46 app. U.S.C. 1241a), regarding the Vessel Operations Revolving Fund (49

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CFR 1.66). The Maritime Administrator has redelegated that authority to the Associate Administrator for Shipbuilding and Ship Operations (Maritime Administrative Order 70-1).

§ 327.3 Required claims submission.

All claims specified in 50 U.S.C. app. 1291(a) (2) and (3), quoted in § 327.2(b) of this part, shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5 of this part, prior to institution of court action thereon.

§ 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

- (1) In writing,
- (2) Designated as a claim,
- (3) Disclose that the object sought is the administrative allowance of the claim,
- (4) Comply with the requirements of this part, and
- (5) Filed as provided in § 327.5 of this part.

The claim need not be sworn or attested to by the claimant. However, the statements made in the claim are subject to the provision of 18 U.S.C. 287 and 1001 and all other penalty provisions for making false, fictitious, or fraudulent claims, statements or entries, or falsifying, concealing, or covering up a material fact in any matter within the jurisdiction of any department or agency of the United States. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 app. U.S.C. 745), shall not be in compliance with the requirements of this part.

(b) *Contents.* Each claim shall include the following information:

- (1) With respect to the seaman:
 - (i) Name;
 - (ii) Mailing address;
 - (iii) Date of birth;
 - (iv) Legal residence address;
 - (v) Place of birth; and
 - (vi) Merchant mariner license or document number and social security number.
- (2) With respect to the basis for the claim:
 - (i) Name of vessel on which the seaman was serving when the incident occurred that is the basis for the claim;

(ii) Place where the incident occurred;

(iii) Time of incident—year, month and day, and the precise time of day, to the minute, where possible;

(iv) Narrative of the facts and circumstances surrounding the incident; and

(v) The names of others who can supply factual information about the incident and its consequences.

(3) The dollar amount of claim for:

(i) Past loss of earnings or earning capacity;

(ii) Future loss of earnings or earning capacity;

(iii) Medical expenses paid out of pocket;

(iv) Pain and suffering; and

(v) Any other loss arising out of the incident (describe).

(4) All medical and clinical records of physicians and hospitals related to a seaman's claim for injury, illness, or death shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MARAD to obtain all such records. The claim shall also include the number of days the seaman worked as a merchant mariner and the earnings received for the current calendar year, as well as for the two preceding calendar years.

(5) If the claim does not involve a seaman's death, the following information shall be submitted with the claim:

(i) Date the seaman signed a reemployment register as a merchant mariner;

(ii) Copy of the medical fit-for-duty certificate issued to the seaman;

(iii) Date and details of next employment as a seaman; and

(iv) Date and details of next employment as other than a seaman.

(6) If the claim is for other than personal injury, illness or death, the claim shall provide all supporting information concerning the nature and dollar amount of the loss.

§ 327.5 Filing of claims.

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be

filed either by personal delivery or by registered mail.

(b) Each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose. The claimant shall send a copy directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

§ 327.6 Notice of allowance or disallowance.

MARAD shall give prompt notice in writing of the allowance or disallowance of each claim, in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall contain a brief statement of the reason for such disallowance.

§ 327.7 Administrative disallowance presumption.

If MARAD fails to give written notice of allowance or disallowance of a claim in accordance with § 327.6 of this part within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5 of this part, such claim shall be presumed to have been "administratively disallowed," within the meaning in section 1(a) of 50 U.S.C. app. 1291(a), quoted in § 327.2(b) of this part.

§ 327.8 Court action.

No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. 1291(a), quoted in § 327.2(b) of this part, their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§ 327.4 and 327.5 of this part and shall have been administratively disallowed in accordance with § 327.6 or 327.7 of this part.

PART 328—SLOP CHESTS

Sec.

1. What this order does.